



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/607,247

06/25/2003

Jeffrey A. Hubbell

UTSB 493 CIP CON (5)

4957

23579

7590

06/23/2006

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE
SUITE 1200
ATLANTA, GA 30361

EXAMINER

NAFF, DAVID M

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,247

Applicant(s)

HUBBELL ET AL.

Examiner

David M. Naff

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32 and 36-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32 and 36-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1651

DETAILED ACTION

A response of 4/12/06 amended claims 32, 36, 38 and 40, and submitted a terminal disclaimer.

Claims examined on the merits are 32 and 36-42, which are all
5 claims in the application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

Claims 32 and 36-42 are rejected on the ground of nonstatutory
10 obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,465,001 in view of Hsu for reasons in the previous office action of 1/31/06.

The present claims require a substrate having a polymeric coating formed by free radical polymerization of a macromer, wherein the
15 coating contains one or more polysaccharides, and the substrate is an implantable material.

The patent claims require treatment of a medical condition at a site by applying a polymerization initiator and a macromer, and polymerizing the macromer to form a cross-linked polymeric material.
20 The polymeric material can be formed on the surface of an implanted material (claim 14).

Hsu discloses a substrate surface having an anti-thrombogenic coating containing heparin (col 4, lines 25-33). The substrate can be a resin substrate for contact with blood (col 7, lines 10-25) that can
25 be cellular, non-cellular, porous or non-porous (col 7, lines 27-30).

It would have been obvious to include heparin in the polymeric material of the claims of the patent as suggested by Hsu to make the polymeric material anti-thrombogenic. It would have been further obvious to use as the implanted material of the patent claims a resin substrate as taught by Hsu to provide an article for contact with blood. The resin substrate will be an implantable material.

Response to Arguments

Applicants urge that double patent rejections are overcome by a terminal disclaimer submitted with the response. However, the terminal disclaimer did not disclaim over patent 6,465,001, and the response did not traverse this double patenting rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1651

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is 571-272-0920. The examiner can normally be reached on Monday-Friday 9:30-6:00.

5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [http://pair-](http://pair-direct.uspto.gov)
15 [direct.uspto.gov](http://pair-direct.uspto.gov). Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David M. Naff
Primary Examiner
Art Unit 1651

20 DMN
6/20/06